

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4996 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KALUBHAI RAMABHAI PARMAR

Versus

SUPERINTENDING ENGINEER

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Appearance:

MR ND NANAVATI for Petitioner

MS PS PARMAR for Respondent No. 1

MR DIPAK PATEL for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Challenge is made by the petitioner who was holding the post of Technical Assistant in the office of the respondent No.1 to the order annexure, 'E' dated 6th May, 1987 under which his services were came to an end on 23rd June, 1987.

3. The petitioner was admittedly appointed on probation on the post of Technical Assistant under the order dated 17th October, 1985. His work was not satisfactory and from time to time, the respondents have given him an opportunity to improve his work by extending the period of probation. It is not in dispute that the respondents have many times pointed out the petitioner in writing his deficiencies in the work. However, the counsel for the petitioner contended that in the letter which has been given for the improvement of work, it has not been stated what is the lacking in the petitioner's working. I fail to see any justification in this contention. All minute details are not required to be given in such a letter. The respondents have acted very fairly and the petitioner has been given out sufficient opportunity for improving of his work, but still he could not improve it and ultimately, when his work was not found satisfactory, the respondents were perfectly justified to discharge him from services.

4. Then the counsel for the petitioner contended that the termination of the services of the petitioner is malafide as he belongs to Harijan Chamar Caste, a schedule caste. The authority wanted to accommodate other people and so he has not been treated equally and discriminated on irrelevant grounds. However, this ground has been raised first time by the petitioner in the grounds of the writ petition. The affidavit which has been filed by the petitioner is also relevant to be referred. The averments made in Para-5E of the Special Civil Application are stated to be true as per the information of the deponent. So, these averments made in Para -5(E) of this Special Civil Application are true to the petitioner's information. The petitioner has not disclosed the source of information. Otherwise also, the petitioner has not specifically named the Officer who has acted malafidely. Not only this, the petitioner has further not disclosed the name of the person to be favoured. In the case of J.N. Banavalikar vs. Municipal Corporation of Delhi reported in AIR 1996 SC 326, Their Lordships of the Hon'ble Supreme Court held that in a case where there are allegations of malafide, the authority who passed the order and the party who has been favoured are necessary party. In the present case, the allegation of malafide is wholly vague and insufficient to constitute the plea of malafide. The petitioner has not impleaded the officer concerned as a party as well as the person who was to be favoured.

5. Taking into consideration the totality of the

facts of this case, I do not find any illegality in the action of the respondents to terminate the services of the petitioner, who was a probationer.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

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